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Attorneys for Defendant
RASH CURTIS & ASSOCIATES

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SANDRA MCMILLION, JESSICA
ADEKOYA, and IGNACIO PEREZ, on
Behalf of Themselves and all Others Similarly
Situated.

Case No. 4:16-cv-03396-YGR

THE PARTIES' PROPOSED STATEMENTS OF THE CASE

Date: April 12, 2019
Time: 9:00 a.m.
Courtroom 1, 4th Floor

Hon. Yvonne Gonzalez Rogers

RASH CURTIS & ASSOCIATES,
Defendant.

Plaintiff's Proposed Statement of the Case

This is a class action lawsuit. Plaintiff Ignacio Perez and the Class Members allege that Defendant Rash Curtis & Associates, a debt collector, called people on their cellular telephones and that Rash Curtis obtained their numbers through a process called skip tracing. Plaintiff and the Class Members allege that those calls violate the Telephone Consumer Protection Act, 47 U.S.C. sections 227 et seq. (the “TCPA”). Plaintiff and the Class Members have the burden of proving these claims.

Rash Curtis denies the claims, and contends the Class Members cannot prove it violated the TCPA. The Court has already determined that Rash Curtis' calls to Plaintiff and the Class Members were made using an automatic telephone dialing system within the meaning of the TCPA, and that Rash Curtis did not have consent to call Plaintiff Perez.

The Court has certified the following classes:

Skip-Trace Class 1: All persons who received a call on their cellular telephones within four years of the filing of the complaint until the date that class notice is disseminated from Rash Curtis' DAKCS VIC dialer and/or Global Connect dialer whose cellular telephone was obtained by Rash Curtis through skip tracing.

Skip-Trace Class 2: All persons who received a prerecorded message or robocall on their cellular telephones [or] landline phones within four years of the filing of the complaint until the date that class notice is disseminated from Rash Curtis whose telephone number was obtained by Rash Curtis through skip tracing.

Non-Debtor Class 1: All persons who received a call on their cellular telephones within four years of the filing of the complaint until the date that class notice is disseminated from Rash Curtis' DAKCS VIC dialer and/or Global Connect dialer whose telephone number was obtained by Rash Curtis through skip tracing and for whom Rash Curtis never had a debt-collection account in their name.

Non-Debtor Class 2: All persons who received a prerecorded message or robocall on their cellular telephones [or] landline phones within four years of the filing of the complaint until the date that class notice is disseminated from Rash Curtis whose telephone number was obtained by Rash Curtis through skip tracing and for whom Rash Curtis has never had a debt-collection account in their name.

The Court has appointed Plaintiff Perez as the class representative of these classes and has appointed the law firm Burson & Fisher, P.A. as counsel for the certified classes.

Defendant's Proposed Statement of the Case

Pursuant to the Court's Local Rules and Standing Orders, Defendant Rash Curtis & Associates hereby submits the following statement of the case:

Plaintiff Ignacio Perez alleges that Defendant Rash Curtis & Associates violated the Telephone Consumer Protection Act or TCPA by placing automatically-dialed telephone calls to his cellular telephone number without his prior express consent. Mr. Perez also claims Rash Curtis obtained his cellular telephone number through skip-tracing. Rash Curtis denies Mr. Perez's claims and alleges that it stopped calling Mr. Perez as soon as it learned he was not Daniel Reynoso, the debtor Rash Curtis was actually trying to reach. Rash Curtis also alleges that it obtained the telephone number in question from its creditor-client, Sutter General Hospital, not through skip-tracing. Accordingly, Rash Curtis claims Mr. Perez is not a proper class representative as his telephone number was not obtained through skip-tracing and his claims are not representative of the class claims.

Rash Curtis also alleges a number of affirmative defenses including that its calls to Mr. Perez were made in good faith, with prior express consent, and in reasonable reliance on the information provided by its creditor-client, Sutter General Hospital. Rash Curtis also alleges the calls fell within a “safe harbor” because Rash Curtis did not know the cell phone number provided by Sutter General Hospital had been reassigned from Mr. Reynoso to Mr. Perez until Mr. Perez informed Rash Curtis that it was calling the wrong person. Mr. Perez denies that any of the affirmative defenses excuse Rash Curtis from liability.

Dated: March 4, 2019

Respectfully submitted,

BURSOR & FISHER, P.A.

By: /s/ *Yeremey Krivoshey*
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Dated: March 4, 2019

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